

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Vernon Lee Pugh,

Civil No. 06-2689 (PAM/JSM)

Petitioner,

v.

ORDER

State of Minnesota,

Respondent.

This matter is before the Court on the Amended Petition for Writ of Habeas Corpus, which Petitioner timely filed on December 6, 2006,¹ pursuant to the Court's Order of November 13, 2006. For the reasons that follow, the Court remands this case to United States Magistrate Judge Janie S. Mayeron for consideration of the Amended Petition.

Petitioner filed his first Petition for Writ of Habeas Corpus on June 27, 2006. Respondent moved to dismiss the Petition, and the Magistrate Judge issued a Report and Recommendation ("R&R"), which recommended dismissing the Petition without prejudice because it contained both exhausted and nonexhausted issues. Petitioner timely objected to the R&R, asking the Court to consider only his exhausted issues. The Court construed the Objection as a request to amend the Petition and directed Petitioner to file an amended petition by December 13, 2006.

¹Petitioner also filed a Motion for Leave to Proceed In Forma Pauperis (IFP). However, Petitioner has already been granted IFP status, and this status remains in effect. The Court therefore denies the IFP motion as moot.

The Amended Petition moots both the Motion to Dismiss and the R&R. The Court therefore remands the matter to the Magistrate Judge for consideration of the Amended Petition. Accordingly, **IT IS HEREBY ORDERED** that:

1. Respondent's Motion to Dismiss (Docket No. 6) is **DENIED as moot**;
2. The R&R (Docket No. 11) is **moot**;
3. Petitioner's Motion for Leave to Proceed IFP (Docket No. 17) is **DENIED as moot**; and
4. Respondent is directed to file an answer to the Amended Petition, certifying the true cause of Petitioner's detention and showing cause why a writ should not be granted. Respondent's answer shall fully comply with the requirements of Rules 5(b), (c), and (d) of the Rules Governing Section 2254 Cases in the United States District Courts. The answer shall be filed with the Court within thirty days after the date of this Order, and a copy of the answer shall be served upon Petitioner simultaneously with such filing. If Petitioner intends to file a reply to the answer, that reply must be filed within thirty days after the date when the answer is filed. Thereafter, no further submissions from either party will be permitted, except as expressly authorized by Court order.

Dated: December 12, 2006

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge